

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MATHEW COLLETT,

Plaintiff,

v.

MASON COUNTY, et al,

Defendants.

CASE NO. 3:23-CV-5654-RAJ-DWC

ORDER ON MOTION FOR  
RECONSIDERATION AND MOTION  
FOR COUNSEL

Currently before the Court is Plaintiff Mathew Collett's Motion for Reconsideration and Motion requesting Court-appointed counsel. Dkts. 23, 25.

**I. Motion for Reconsideration (Dkt. 25)**

Plaintiff filed the Motion for Reconsideration seeking reconsideration of the Court's Order denying his request for Court-appointed counsel. Dkt. 25. On August 16, 2023, the Court denied Plaintiff's Application for Court-Appointed Counsel (Dkt. 6) because Plaintiff did not show (1) this case involves complex facts or law; (2) an inability to articulate the factual basis of his claims in a fashion understandable to the Court; or (3) he is likely to succeed on the merits of his case. *See* Dkt. 16. In the Motion for Reconsideration, Plaintiff states he has been placed on

1 lockdown and cannot access the law library and does not have access to paper or pen. Dkt. 25.  
2 Plaintiff does not indicate how long he will be in lockdown. *Id.*

3 Pursuant to Local Civil Rule 7(h), motions for reconsideration are disfavored and will be  
4 denied absent a showing of manifest error or a showing of new facts or legal authority which  
5 could not have been presented earlier with reasonable diligence. Importantly, the motion must be  
6 filed within fourteen days after the order to which it relates is filed. LCR 7(h). Failure to comply  
7 with the fourteen-day deadline may be grounds for denial of the motion. *Id.*

8 Plaintiff's Motion for Reconsideration is untimely. The Court issued its order on August  
9 16, 2023. Dkt. 16. Any motion for reconsideration was due on or before August 30, 2023.  
10 Plaintiff did not file the Motion for Reconsideration until September 5, 2023 (dated September 1,  
11 2023). Moreover, Plaintiff has filed a second motion requesting Court-appointed counsel, which  
12 the Court will consider. For these reasons, the Motion for Reconsideration (Dkt. 25) is denied.

## 13 II. Motion for Court-Appointed Counsel (Dkt. 23)

14 Plaintiff has also filed a second Motion requestion Court-appointed counsel. Dkt. 23. As  
15 the Court stated in its previous Order denying counsel, no constitutional right to appointed  
16 counsel exists in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see*  
17 *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment  
18 of counsel under this section is discretionary, not mandatory”). However, in “exceptional  
19 circumstances,” a district court may appoint counsel for indigent civil litigants pursuant to 28  
20 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th  
21 Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether  
22 exceptional circumstances exist, the Court must evaluate both “the likelihood of success on the  
23 merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity  
24

1 of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)  
2 (*quoting Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts  
3 showing he has an insufficient grasp of his case or the legal issues involved and an inadequate  
4 ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp. of America*,  
5 390 F.3d 1101, 1103 (9th Cir. 2004).

6 In the Motion for Counsel, Plaintiff states he needs counsel because he is uneducated,  
7 does not have computer skills, and the law library has limited materials. Dkt. 23. Plaintiff also  
8 states his mental health impairments limit his ability to litigate this case. *Id.* At this time, Plaintiff  
9 has not shown, nor does the Court find, this case involves complex facts or law. Plaintiff has also  
10 not shown he is likely to succeed on the merits of his case or shown an inability to articulate the  
11 factual basis of his claims in a fashion understandable to the Court. Additionally, Plaintiff is able  
12 to clearly articulate his requests in a way that is understandable to the Court. While Plaintiff may  
13 be able to better litigate this case with appointed counsel, that fact, alone, does not establish an  
14 extraordinary circumstance warranting the appointment of counsel. *See Rand*, 113 F.3d at 1525;  
15 *Wilborn*, 789 F.2d at 1331. Therefore, the Court finds Plaintiff has failed to show the appointment  
16 of counsel is appropriate at this time. Accordingly, Plaintiff’s Motion for Counsel (Dkt. 23) is  
17 denied.

### 18 III. Conclusion

19 For the above stated reasons, Plaintiff Motion for Reconsideration (Dkt. 25) and Motion  
20 requesting Court-Appointed Counsel (Dkt. 23) are denied.

21 Dated this 2nd day of October, 2023.

22 

23 David W. Christel  
24 Chief United States Magistrate Judge